

Applicant: John Robert Davies
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REMARKS

This is a response to the Office Action dated April 21, 2010. Claims 58-71 are pending. In the Office Action, Claims 58-71 were rejected under 35 USC § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 58-71 were also rejected on the ground of non-statutory double patenting over claims 1-5 and 7-8 of U.S. Patent No. 6,446,696. Claims 58-71 were also provisional rejected on the ground of non-statutory double patenting over pending claims of U.S. Patent Application Serial No. 11/826,222. Claims 58-71 also were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,842,890 (“Kramer”) in view of U.S. Patent No. 5,505,244 (“Thumann”).

With this response, claims 58-71 have been canceled, and claims 72-83 have been added. Claims 72-83 do not add new matter and are fully supported by the specification. Reconsideration of the application is respectfully requested in light of these claims and the following remarks.

INTERVIEW SUMMARIES

Interviews between Applicants and Examiner Redman took place on September 8, October 14, and October 15. The scope of the claims was discussed, and Examiner Redman also introduced a new reference, U.S. Patent No. 3,186,473 to Myers et al. No agreement was reached.

REJECTIONS ON THE GROUNDS OF NON-STATUTORY DOUBLE PATENTING

In the Office Action, Claims 58-71 were rejected on the ground of nonstatutory double patenting over claims 1-5 and 7-8 of U.S. Patent No. 6,446,696. Claims 58-71 were also provisional rejected on the ground of nonstatutory double patenting over pending claims of U.S. Patent Application Serial No. 11/826,222. With this response, claims 58-71 have been canceled, and claims 72-83 have been added. Applicants respectfully submit that the previous rejections on double patenting ground are not appropriate with regard to new claims 72-83. Accordingly, Applicants respectfully request that these rejections to the claims be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 103(a)

In the Office Action, Claims 58-71 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kramer in view of Thumann. With this response, Claims 58-71 have been canceled. Accordingly, Applicants respectfully request that these rejections of these claims be withdrawn. Moreover, Applicants submit that new Claims 72-83 are patentable over the combination of Kramer and Thumann because these references, either alone or in combination, fail to disclose each and every feature of the claims.

A. Claims 72 and 79

Independent claims 72 recites a closure frame that include “a closure frame for a window or door, the closure frame including header, sill and jamb portions, one of the header or jamb portions including a first part having a hollow interior defining a pocket portion, the one of the header or jamb portions and the pocket portion being an integral one piece unit.” Similarly,

Claim 79 recites a method that includes the step of, “forming, by an extrusion process, a closure frame for a window or door, the closure frame including header, sill and jamb portions, one of the header or jamb portions including a first part having a hollow interior defining a pocket portion, the one of the header or jamb portions and the pocket portion being an integral one piece unit formed by the extrusion process.”

Neither the Kramer reference nor the Thumann reference teaches or suggests, either alone or in combination, the above features as claimed by Applicants.

Kramer fails to disclose or suggest these features. Kramer fails to teach or suggest any “the one of the header or jamb portions and the pocket portion being an integral one piece unit.” (*See, e.g.*, Kramer, at col.2, 1.28 – col.8, 1.6). Just the opposite, Kramer specifically notes that the closure member must be assembled within the frame. (Kramer, col 3, 1.64-65). Thus, Kramer teaches the opposite of an integral one piece unit.

Thumann fails to fill the gap because Thumann also fails to disclose or suggest a structure having the claimed features. As opposed to Applicants claim, Thumann teaches a retractable covering included as part of an add-on unit that is mounted on top of the pre-existing closure frame. (*See, e.g.*, Thuman at FIGS, 1-5 and accompanying text). Thus, Thumann fails to describe a covering that is mounted in a jamb pocket portion, much less an assembly wherein, “the one of the header or jamb portions and the pocket portion being an integral one piece unit,” as claimed.

Nor would one of ordinary skill in the art be motivated to combine the Kramer and Thumann references as suggested in the Office Action. First, Kramer specifically teaches away from the use of a spring biased roller to accumulate a retractable screen. Instead, Kramer

repeated states that no such roller is necessary. (*See, e.g.*, Kramer at col. 4, ll.6-9 (noting that “there is *no need for the use of a vertical post* or coiling grooves to wind about) (emphasis added)). In fact, the Summary of the Invention of Kramer teaches away from such a roller – “It is an object of the present invention to provide an improved coilable closure device . . . which in the open position has a plastic sheet which upon itself coils in a tight roll *without a post*.” (Kramer, col. 1, ll.14-19) (emphasis added). Thus, one of ordinary skill in the art would not be motivated to modify the teachings of Kramer with the use of a roller as described in Thumann.

Additionally, it is not clear that one of ordinary skill in the art would arrive at the structure claimed by Applicants even if a motivation to combine Kramer and Thumann was present. The Office Action does not explain why one of ordinary skill in the art would choose certain teachings of Kramer, which teaches a roller-less assembly mounted in a door opening, over the incompatible teachings of Thumann, which teaches an assembly having a roller that is mounted on top of an existing frame. Would the screen be contained with a storage jamb, as taught by Kramer, or on the outside of a jamb, as taught by Thumann? Would the assembly use a roller, or not use a roller? There is simply no explanation why these incompatible teachings would be reconciled in a manner consistent with Applicants’ disclosure. Rather it appears the Office Action is improperly relying on hindsight.

For at least these reasons, Applicants respectfully submit that independent claims 58 and 65 are patentable over the combination of Kramer and Thumann, and Applicants respectfully request that this rejection of this claim be withdrawn.

B. Claims 73-78 and 80-83

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Dependent claims 73-78 and 80-83 depend from claims 72 and 79, respectively.


Accordingly, dependent claims 73-78 and 80-83 should be allowed for at least the reasons set forth above for independent claims 72 and 79, and Applicants respectfully request that these rejections of these claims be withdrawn.

CONCLUSION

Applicants respectfully submit that all of the pending claims are in condition for allowance and seeks early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the attorney on record.

Respectfully submitted,

Date: October 21, 2010



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